

CHAPTER 9

STATEWIDE BUDGET OVERVIEW

9.1 INTRODUCTION

This chapter starts with a brief overview of the State’s balanced budget requirements, its budget reserve requirements, and its state spending and revenue limits. Section 9.3 is an overview of the executive and legislative budget process. Section 9.4 is an overview of the review processes for information technology requests, capital construction requests, and controlled maintenance requests. Section 9.5 provides information on budget fund sources. Finally, Section 9.6 describes the process of coordinating requests that affect multiple departments.

9.2 BUDGET OVERVIEW

Colorado Balanced Budget Requirement

Colorado has a balanced budget requirement. The Colorado State budget must be balanced within the limitations on General Fund spending and available revenues for General Fund, Cash Funds, and Federal Funds. All executive requests are balanced within statutory and constitutional spending requirements and revenue availability.

- Proposed “expenditures in the budget shall not exceed estimated moneys available” (Section 24-37-301, C.R.S. (2008)).
- If General Fund reserves (defined below) fall below the statutorily established levels, the statutes direct the Governor to formulate a budget plan (Section 24-75-201.5 (1) (a), C.R.S. (2008)). Such required budgets are statutorily triggered by the revenue forecast noted in Section 24-75-201.3 (2), C.R.S. (2008) which is based on the Governor’s executive revenue forecast.
- The Governor “may suspend or discontinue, in whole or in part, the functions or services” when there are not sufficient revenues available for expenditure (Section 24-2-102 (4), C.R.S. (2008)). Section 24-2-103 (2), C.R.S. (2008) provides that the furloughs and related actions apply to exempt employees as well.
- The statutes provide guidance on what constitutes a “fiscal emergency” (Section 24-50-109.5, C.R.S. (2008)). Fiscal emergency is defined as a “. . . crisis concerning the fiscal condition of state government which is caused by a significant General Fund revenue shortfall or significant reductions in cash or federal funds which threatens the orderly operating of state government” and the health, safety, etc. of citizens. Such an emergency is declared by a joint resolution of the General Assembly, and approved by the Governor. This

section also speaks to the actions necessary to be taken by the Governor, including furloughs, suspension of salary, benefits, etc.

State Budget Reserves

The Colorado State Budget has two primary reserve requirements: The General Fund reserve and the TABOR reserve.

General Fund Reserve

The State has a General Fund appropriations reserve requirement (Section 24-75-201.1 (1) (d), C.R.S. (2008)). Unless there are statutory exceptions (as were made in FY 2008-09 and FY 2009-10) this General Fund reserve has been equal to 4% of General Fund appropriations. The State's General Fund reserve is a reserve on General Fund appropriations, not on all General Fund expenditures (e.g., other obligations and/or capital expenditures are not part of the reserve calculation).

SB 09-228 directs annual General Fund transfers to increase the General Fund appropriations reserve starting in FY 2012-13. The additional transfer to the General Fund reserve is based on percentages of *total General Fund appropriations* (an increase of 0.5% of General Fund appropriations – for a total reserve level of 4.5% in FY 2012-13). At the end of five years (e.g., FY 2016-17), the reserve will have built to “at least” 6.5% of General Fund appropriations. Please see the caveat on the FY 2012-13 start year, below.

TABOR “Emergency” Reserve

Article X, Section 20 of the Colorado Constitution provides for a 3% TABOR Emergency Reserve. The TABOR Emergency Reserve is equal to 3% of non-exempt General Fund and cash fund revenues each year. Article X, Section 20 (2) (c) of the Colorado Constitution excludes “economic conditions, revenue shortfalls, or district salary or fringe benefit increases” from the definition of emergency. As TABOR specifically excludes fiscal emergencies from the criteria for spending from the TABOR Emergency Reserve, this reserve cannot be used just to augment existing spending. This reserve is annually designated by the General Assembly in the Long Bill headnotes (definitions at the beginning of the bill annual appropriations bill). If money is spent from the TABOR reserve, it must be repaid the next year.

State Spending Limits

State General Fund spending is governed by statutory spending limits and transfers and constitutional revenue limits. The revenue limits have often been referred to as “spending limits” because the spending is not possible if the revenue is limited.

General Fund Appropriations Limit and Statutory Transfers

The State budget has a statutory limit on annual increases in General Fund appropriations. Senate Bill 09-228 eliminated the Section 24-75-201.1, C.R.S. provision known as the “Arveschoug/Bird” 6% limit (it also replaced other statutory spending/transfer triggers known as SB 97-1 and HB 02-1310). Instead, SB 09-228 set the General Fund appropriations limit equal

to 5% of Colorado personal income, and requires alternative transfers to transportation, capital construction, and the General Fund statutory reserve for a five-year period beginning in FY 2012-13.

A caveat is necessary as there will not be a transfer in FY 2012-13 unless personal income grows by 5% in CY 2012 over CY 2011. This data will be known in March 2013. If this threshold is not met at this time, the five-year block is pushed forward until the first year hits the 5% threshold, after which the five-year sequence will begin.

Transfers from the General Fund to transportation, capital construction, and the General Fund statutory reserve are specified in SB 09-228. The transfers to transportation and capital are percentages of total General Fund revenue (2% and 0.5% respectively for two years then 2% and 1%, respectively for the final three years). The transfer to the General Fund reserve is based on percentages of total General Fund appropriations (0.5% of General Fund appropriations). At the end of five years the reserve would have built to “at least” 6.5% of General Fund appropriations. The capital and transportation transfers, however, are subject to a trigger based on the size of future TABOR refunds specified in the bill.

The following General Fund expenditures are outside of the annual spending limitations on General Fund appropriations: Old Age Pension payments, cigarette tax rebates, Property Tax and Heat Credit, Police/Fire Pension payments, Senior/Veterans Property Tax Exemption, and Constitutional General Fund expenditures if authorized outside the annual spending limit.

Highway Users Tax Fund Off-the-Top

The Highway Users Tax Fund (HUTF) is intended to fund the state's highway construction and maintenance needs. A variety of taxes and fees are credited to the HUTF; gas taxes comprise the largest source of money for the HUTF. Other HUTF revenue sources include vehicle registration fees and vehicle penalty assessments. The Department of Public Safety, Colorado State Patrol, and the Department of Revenue, Ports of Entry, receive an “Off-the-Top” allocation before other distributions are made. The “Off-the-Top” portion of the HUTF is permitted to grow by 6% above the prior year’s appropriation each year per Section 43-4-201 (3) (a) (I) (B), C.R.S. (2008). After the “Off-the-Top” funds are removed, the HUTF is distributed by formula to cities, counties and the state. Sections 43-2-116, 43-2-129, and 43-4-201 through 43-4-216, C.R.S. (2008) govern the expenditure from the HUTF.

TABOR (Article X, Section 20 of the Colorado Constitution)

The “TABOR” limit was made part of the Colorado Constitution (Article X, Section 20) in 1992 as a result of a citizen's initiative. TABOR requires voter approval for any new or increased taxes. The TABOR limit restricts the State’s total revenue growth for State cash funds and State General Fund combined to the sum of inflation and population growth over the prior year’s authorized limit or TABOR revenues, whichever are lower. The TABOR limit ratchets down. Please see the section on Referendum C for information on how the measure changed the TABOR “ratchet effect.”

State revenues are defined as non-exempt cash funds and General Fund. Federal funds are not subject to TABOR. Other fund sources, such as donations or damage awards (such as tobacco funds received as a result of the tobacco litigation settlement), are exempt from the TABOR revenue limits. Exempt revenues include:

- Expenditures from reserves;
- Transfers from one agency to another (as long as the sending agency is not an enterprise);
- Refunds of excess state revenues made in the current fiscal year or in the subsequent fiscal year;
- Gifts, including any interest earned thereon;
- Federal funds, including any interest earned thereon;
- Collections for another government;
- Pension contributions by employees;
- Pension fund earnings;
- Damage awards paid to the state, including any interest earned thereon;
- Property sales, including any interest earned thereon;
- Net proceeds from state-supervised lottery games; and
- Enterprise revenues.

According to TABOR, an enterprise “means a government-owned business authorized to issue its own revenue bonds and receiving under ten percent of annual revenue in grants from all Colorado state and local governments combined.” An example of an enterprise is the State Lottery or the Division of Wildlife in the Department of Natural Resources.

TABOR defines “fiscal year spending” as expenditures or reserve increases; as such, revenues received by the state that are not specifically exempted are defined as “spending.” For this reason, the TABOR limit on revenue is also referred to as a spending limit.

TABOR restricts state revenues from growing by more than the sum of inflation plus state population growth. Thus, if inflation was 2.1% and state population growth was 1.4% in the prior calendar year, then the total allowable TABOR growth rate in State revenues would be 3.5% (2.1% + 1.4% = 3.5%).

TABOR Limit and Referendum C Cap

Referendum C, a bi-partisan measure referred by the General Assembly to the voters, was approved by Colorado voters in November 2005. Referendum C authorized the state to retain

(and spend) all state revenues in excess of the TABOR limit for FY 2005-06 through FY 2009-10. While this authorization is sometimes referred to as a “TABOR time out,” the TABOR limit still exists. Referendum C simply eliminated, for five years, refunds that taxpayers would have received when the state collected more than it was authorized. The measure also permanently eliminated the “ratchet-down” effect which lowered the TABOR revenue base in a year in which low revenues occur.

Beginning in FY 2010-11, Referendum C created a new state spending cap equal to the highest amount of money the state collects in any year between FY 2005-06 and FY 2009-10. This new level will equal the highest revenue year and such year will then increase annually by a rate equal to inflation plus population growth. This new level is referred to as the Referendum C cap. After FY 2009-10, all money collected above the Referendum C cap will be refunded to taxpayers. In this way, Referendum C eliminated the “ratchet effect” in the TABOR limit.

General Fund Exempt – TABOR revenue between the Referendum C Cap and the TABOR limit are still expended as General Fund Exempt – TABOR according to statute per Section 24-77-104.5 (1) (a) and 24-77-103.6 (2), C.R.S. Fiscal year 2009-10 did not have revenues at this level so no General Fund Exempt – TABOR appropriation was made in the FY 2009-10 Long Bill (SB 09-259).

If state revenues are higher than the TABOR limit, the surplus revenues in excess of the limit must be refunded to taxpayers unless the state has prior voter approval to keep some portion of the excess. If revenues are lower than the TABOR limit, no refunds occur.

9.3 BUDGET PROCESS

The following description of the budget process provides a general timeline for budget preparation and review. Please refer to the budget calendar for detail on all deadlines.

Executive Budget Process

While the authorization for spending (“appropriations”) in Colorado rests with the General Assembly, the Executive branch initiates the annual budget process through its submission of the Governor’s November 1 executive budget request to the Joint Budget Committee of the General Assembly. The Joint Budget Committee (JBC) is the permanent fiscal and budget review agency that writes the annual appropriations bill. The November 1 executive request seeks funding for the upcoming fiscal year which begins on July 1 and ends on June 30. This section discusses the executive budget process.

Role of the Governor’s Office of State Planning and Budgeting (OSPB)

Section 24-37-303, C.R.S. (2008) vests all executive authority on the executive budget with the Governor. OSPB assists the Governor in building and managing the executive budget. The role of OSPB is outlined in Article 37 of Title 24, Colorado Revised Statutes. Specifically, OSPB’s functions include, but are not limited to, the following:

- Strategic planning (Section 24-37-103 (1) (b), 201, and 302 (1) (a) and (n), C.R.S. 2008);
- Preparation of budget cycle, budget forms and instructions for budget requests, in conjunction with the JBC (Section 24-37-103 (1) (a), and 302 (1) (a), (b), and (c), C.R.S. 2008);
- Provide revenue estimates for the Governor (Section 24-37-302 (1) (e), C.R.S. 2008);
- Evaluate budget requests and ensure a balanced budget (Section 24-37-304 (1) (a), C.R.S. 2008);
- Make recommendations to the Governor on the budget and budget proposals, including legislation for such proposals (Section 24-37-302 (1) (g), C.R.S. 2008);
- Submit the Executive budget request to the JBC (Section 24-37-304 (1) (b), C.R.S. 2008) and brief the JBC, members of the General Assembly, and the public on the request (Section 24-37-302 (1) (h), C.R.S. 2008); and,
- Ensure budgets are executed pursuant to appropriation, laws, and legislative intent (Section 24-37-304 (1) (d), C.R.S. 2008).

Executive Economic Forecast

The Governor's Office makes an estimate of General Fund revenues, in accordance with Section 24-75-201.3 (2) C.R.S. (2008). The statute provides for this estimate to be made no later than June 20, September 20, December 20, and March 20. This forecast is used in conjunction with the formulation of the Governor's Executive Budget Request. The Legislative Council Economists also provide a legislative estimate of the revenues on these dates.

Preliminary Base Budgets - Reverse Mark Process

The annual budget process begins in May with the submission of continuing budget calculations (budget reconciliations) to OSPB. This reconciliation contains the annualization of the most recent fiscal year's appropriations plus base changes in the caseload/utilization projections for statutory/mandatory areas such as Youth Corrections, Department of Corrections, Child Welfare, and Medicaid as outlined by OSPB guidelines.

After reviewing and compiling these reconciliations statewide, OSPB calculates the difference ("delta") between the (1) total General Fund in the budget reconciliations, plus statewide common policy changes, for the request year; and (2) the General Fund spending limits and available General Fund for the request year. Based on the delta of General Fund spending compared to available General Fund dollars for spending, the so-called "Reverse Mark" is provided from the OSPB to the respective departments in June. The reverse mark represents the increase or the decrease to the base budget reconciliation that departments may submit to OSPB on August 1. These increases or decreases are submitted to OSPB in the form of prioritized Change Requests, discussed below.

The Governor's Annual November 1 Budget Request Process

As noted above, based on the Reverse Mark allocation, on August 1, departments submit their prioritized Change Requests to OSPB. Departments are requested to ensure quality on all budget submissions submitted to OSPB. Errors and quality problems could inadvertently result in non-approval of initiatives which are important to the department.

In anticipation of a tight budget climate for FY 2010-11, new criteria are being used for department Change Requests, pursuant to the May 7, 2009 communication to executive directors and budget directors. This new criteria includes the following:

- 100% federally funded requests;
- 100% cash funded requests, as long as there is adequate fund balance projected for FY 2010-11. However, only critical requests should be put forward from funds that are a potential source for future cash fund transfers that may be needed depending on our economic situation;
- 100% reappropriated funds requests, with no General Fund impact, with the absence of General Fund impact clearly defended;
- Requests to address an urgent life or safety issue without expanding eligibility for programs;
- Correction of technical errors;
- General Fund neutral requests within departments or between departments. If a department can implement an efficiency in one area, funds can be transferred to another area to address a need (updated caseload projections and savings associated to changes in federal requirements do not represent an efficiency);
- Requests achieving a net General Fund savings in the request year or by FY 2011-12;
- Federal mandates;
- Contractually required increases (departments are not authorized to incorporate inflationary increases into contracts without prior budget approval);
- Statutorily required caseload and rate increases (caseload increases that have historically been included in the base budget request);
- Utilities and food cost increases for direct care facilities; and
- Base reduction or efficiency items.

In August and September of each year, the OSPB staff review and analyze department Change Requests. The OSPB staff provide an analysis and recommendation on each Change Request to the OSPB Director and Deputy Director upon which the Director makes a decision that is subsequently communicated to the departments. The department has a budget hearing with the OSPB Director and OSPB staff after these preliminary decisions are made. After the department's budget hearing, the OSPB Director makes final budget recommendations to the Governor.

In October, based on the Governor's final decisions on the budget, OSPB issues final Mark letters to the departments providing final authorization on the entire budget request. When OSPB receives the final Budget Request (around the third week of October), the staff review the entire document to ensure conformity to the Mark letters, clarity, and accuracy. On November 1, OSPB transmits the Governor's request for each department ("state budget request") to the JBC pursuant to Section 24-37-301 and 304 (1) (b), C.R.S. (2008). Changes to the November 1 Governor's request can only occur with approval of the Governor (via OSPB) through an amendment to the request. In addition to the various budget submissions to the General Assembly, initiatives requiring statutory changes may be prepared as part of the OSPB budget package.

The process of balancing the budget may require previously approved requests to be withdrawn or may result in new requests if proposed expenditures are demonstrated to be an efficient or effective use of state resources and funds are available.

Supplemental Requests and Budget Amendments

After submission of the Governor's Executive Budget Request to the JBC on November 1 (November 2 for FY 2010-11), departments may have an opportunity to request changes to current fiscal year funding (Supplemental Requests) and changes to the November 1 request (Budget Amendments) based on specified criteria and authorization provided by OSPB. Supplemental Requests and Budget Amendments go through a review and approval process at the OSPB similar to the review of the Decision Items and Base Reduction Items which are included in the November 1 Budget Request. Supplementals and Budget Amendments are due to the OSPB for review in mid-November. Supplementals and associated Budget Amendments are typically submitted to the Joint Budget Committee on January 3 and stand-alone Budget Amendments are submitted to the Joint Budget Committee on January 23. Certain budget areas (e.g., Medicaid caseload) are authorized to submit late Supplemental Requests and Budget Amendments beyond this time period to the OSPB for the February 15 submission to the JBC. The due dates adjust from year to year if dates fall on weekends or holidays.

1331 Supplemental Requests

Emergency supplemental requests known as "1331s" are named after H.B. 98-1331. House Bill 98-1331 added Section 24-75-111, C.R.S. which provides authority for the State Controller to allow expenditures in excess of the appropriation within certain circumstances when the General Assembly is not in session. The 1331 statutes authorize the State Controller to authorize expenditures in excess of the appropriation if:

- The overexpenditure is for a department in the state; and
- The overexpenditure is necessary due to unforeseen circumstances arising while the General Assembly is not meeting in regular or special session (note: this means that these are issues that could not be addressed by regular supplementals or other budget action such as an appropriations clause); and
- The overexpenditure is for an operating budget item and is requested by a department overseen by OSPB (i.e., not the Department of State, Treasurer, etc.); and
- OSPB approves the request and this request is sent to the JBC; and
- The JBC approves the request in whole or in part.
- The JBC must authorize the funding via a letter sent by the JBC to the State Controller. This letter commits the JBC to introduce a supplemental bill to authorize the funding. The JBC must introduce a supplemental bill if it approves a 1331. Based on this written commitment by the JBC, the State Controller authorizes the department to spend beyond its appropriation by the amount of the approved 1331.
- The State Controller restricts the following year's funding in the amount of the 1331 if said 1331 is not authorized by supplemental legislation.

Governor's Action on the Budget Bill

The Governor has line item veto (and total bill veto) authority over the Long Bill (as well as any bill) and any bill or item vetoed will not become law unless over-ridden by a two-thirds vote of both houses. If the General Assembly sends the Long Bill (or any bill) to the Governor before the last ten days of the session, the Governor must act on the bill before the end of the session. If the Long Bill (or any bill) is sent to the Governor within the last ten days of the session, the Governor has 30 days after the end of the session to act on the bill.

Legislative Budget Process

The Governor's Budget Request is submitted to the Joint Budget Committee (JBC), the General Assembly's permanent fiscal and budget review entity, and to Legislative Council staff, and to the Legislative Library. The JBC has six members: two majority party and one minority party members of the Senate Appropriations Committee, and two majority and one minority member of the House Appropriations Committee. Members serve two-year terms and are selected following the general election. The chairperson of the JBC alternates between the Senate and the House and changes each November. An outline of the legislative budget process follows.

Legislative Economic Forecast

The Legislative Council staff provide a revenue estimate of General Fund. This forecast is used in the annual certification of the General Fund revenues available and may be used by the

General Assembly as it drafts the State budget. On rare occasions, the General Assembly has chosen to use the OSPB economic forecast.

JBC Staff Briefings/Department Hearings

After the November 1 request is submitted to the JBC, the JBC staff briefs the JBC on department funding levels and issues. Briefings usually begin a week or so after the November 1 request is submitted. During the briefing, hearing questions are outlined for the departments to respond to formally in their hearings. The hearing typically follows about a week after the briefing. Frequently, follow-up written responses are required to be submitted to the Joint Budget Committee. Aside from the periodic hearings where a department is called before the JBC to discuss a specific issue, the budget hearing is the only time departments officially appear before the Joint Budget Committee. Annual budget briefings and hearings occur primarily in November and December, with a few department hearings occurring in January.

Supplementals

In January, the JBC considers regular Supplemental Budget Requests for the current fiscal year which have been approved by OSPB. The JBC staff review each request and provide a written recommendation on each item in a public presentation. When the Joint Budget Committee has finalized all of its decisions on Supplemental Requests, OSPB can present “comebacks” to the JBC on requests. Comebacks are the process whereby OSPB asks the JBC to change a decision on a request. Please see “comebacks” below and in Chapter 4. After the supplemental decisions have been finalized by the JBC, the JBC introduces its package of supplemental bills, usually by mid-February. The JBC also publishes a narrative to explain the introduced package of bills. These bills are considered by the General Assembly and typically become law by mid-March.

Revenue Resolution

By February 1, the General Assembly is required to pass a joint resolution which certifies to the State Controller the amount of State General Fund available for appropriation in the upcoming fiscal year (pursuant to Section 24-75-201.3, C.R.S. 2008). This revenue resolution provides the context for the decisions that the JBC can make in its budget deliberations. However, the subsequent March 20 forecast supersedes this information.

Figure Setting

During February and March, the Joint Budget Committee staff reviews and makes recommendations to the Committee on department funding levels, financing, FTE, and footnotes for each department for the upcoming fiscal year. The Joint Budget Committee votes on each Long Bill department, division, or line item request.

Comebacks

After the Joint Budget Committee concludes (Supplementals) and/or Figure Setting, the Governor and non-executive departments have the opportunity, at the discretion of the Joint

Budget Committee, to request reconsideration of Committee decisions. This is called the “Comeback” process. The executive departments submit Comeback requests to the OSPB for approval. If approved, the prioritized Comebacks are presented to the Joint Budget Committee by the OSPB Director.

Long Bill Introduction

After Comebacks, the Joint Budget Committee “closes” the Long Bill. This means that the final Long Bill decisions have all been made by the Joint Budget Committee in preparation for the drafting of the Long Bill for introduction. The Long Bill is then introduced for consideration by both houses, as a House bill when the JBC chairperson is a House member, and as a Senate bill when the JBC chairperson is a Senator. The Joint Budget Committee staff writes a Long Bill Narrative which explains the Joint Budget Committee’s decisions for each area of the Long Bill as introduced.

Budget Caucus

Budget consideration by the entire General Assembly begins in the respective house’s party caucuses. These caucuses last a couple of days and Joint Budget Committee members explain their decisions and answer questions from their colleagues. The members of the caucuses can request amendments to the Long Bill, which are drafted by the Joint Budget Committee staff. The majority of these amendments are requested during the caucus discussion.

Long Bill Debate

After the Long Bill is passed out of its respective Appropriations Committee, the debate on the Long Bill begins on second reading in the respective houses and amendments to the Long Bill are considered by the members of the General Assembly. After both houses pass the Long Bill, the Joint Budget Committee members are appointed as the Conference Committee to resolve differences between the two houses. After both houses adopt the Conference Committee Report, the Long Bill is sent to the Governor. See Governor’s Action on the Budget Bill, page 2-9 for more information.

9.4 OTHER REVIEW AND APPROVAL PROCESSES

Additional executive or legislative review procedures exist for certain types of Budget Requests. It is important that these additional procedures are followed when preparing a Budget Request. The following is a summary of the procedures and additional information may be found in Chapters 10 and 11.

Information Technology Requests

Pursuant to Section 24-37.5-103, C.R.S., the Office of Information Technology is an agency within the Governor’s Office, headed by the Chief Information Officer. The OIT reviews Change Requests for information technology equipment, information system projects, and related personal services. Approval of OIT is required for any request related to information

technology including personal services, hardware, software, telecommunications, and other costs (for more information, see Chapter 10).

Capital Construction Requests

Capital construction projects are based on a department's need to create, expand, or relocate facilities. Alterations to programs resulting from growth, advances in technology, or changes in methods of program delivery can result in capital needs. Capital construction budget instructions are used by departments requesting spending authority and capital construction funds for projects (see Chapter 11). These requests can include, but are not limited to, the purchase of land, the purchase, construction or demolition of facilities, site improvements or development, purchase of services from experts to prepare plans and studies associated with a project. See Section 24-30-1301, C.R.S. (2008), for more detail.

Capital construction requests are submitted to the OSPB for review and consideration. If approved by the OSPB, they are forwarded to the Capital Development Committee (CDC).

The CDC is a legislative committee established by statute with responsibility to review and recommend capital construction projects to the Joint Budget Committee. If capital construction requests are approved by the OSPB, they are forwarded to the CDC and departments coordinate efforts with the OSPB to provide the CDC and its staff with requested information. Once the CDC submits its recommendations to the Joint Budget Committee, these requests are further reviewed by the JBC and its staff, and departments may be asked for additional information. Please see Chapter 11 and Section 24-75-301, 302, 303, and 305, C.R.S. (2008) for additional information on capital construction requests.

Funds appropriated for capital construction are available for up to three fiscal years.

Controlled Maintenance

Controlled maintenance projects arise out of the deterioration of a facility's physical and functional condition (including site and infrastructure) or the inability to comply with current codes. These requests are based on maintenance of an existing facility.

Controlled maintenance includes corrective repairs or replacement used for existing state-owned general-funded buildings and other physical facilities, including, but not limited to, utilities and site improvements, which are suitable for retention and use for at least five years, and replacement and repair of the fixed equipment necessary for the operating of such facilities, when such work is not funded in a department's operating budget to be accomplished by the department's physical plant staff. Please see Chapter 11 and Section 24-75-302.5, C.R.S. (2008) for more information on controlled maintenance.

9.5 BUDGET FUND SOURCES

Budget schedules in this manual require departments to identify specific fund sources. Departments should list the fund sources in the order in which they appear in the Long Bill (e.g.,

General Fund, Cash Funds, Reappropriated Funds, and Federal Funds). Departments should not list General Fund – Exempt/GFE (defined below) unless they use that funding source. Departments should contact their assigned OSPB analyst with any questions on GFE.

All appropriations come from the fund sources described below in the Operating Funds and Capital Funds sections. The General Fund typically covers more general operating needs of the State while cash fund tend to be earmarked for specific purposes.

Operating Funds

Operating funds include five distinct categories:

- 1) *General Fund (GF)*. General Fund derived primarily from state income and sales taxes. State income tax accounts for approximately 65% of the FY 2009-10 General Fund revenue, according to the Legislative Council Staff March 20, 2009 economic forecast. Individual income tax represents approximately 93% of the total state income tax revenues and corporate income tax represents the remainder of income tax collections (approximately 7%). Sales tax accounts for approximately 30% of state revenue.

Funding from this category is governed by the provisions of Section 24-75-201.1 (1) (a) (II.5), C.R.S. (2009) which specifies that, starting in FY 2009-10, the annual operating General Fund spending limit on appropriations is equal to 5% of personal income.

- 2) The General Fund Exempt appropriations that have been made in the FY 2009-10 Long Bill include the following:

General Fund Exempt – Constitutional provision. The FY 2009-10 Long Bill (SB 09-259) appropriates \$1,008,000 General Fund which is reflected as exempt from Section 24-75-201.1, C.R.S. (2008) pursuant to Section 24-22-117 (1) (c) (I) (B), CRS (2008).

General Fund Exempt – Permanent Statute/Constitution. Another type of General Fund is reflected as exempt from Section 24-75-201.1, C.R.S. The FY 2009-10 Long Bill (SB 09-259) also appropriates \$112,200,000 which is designated as exempt from Section 24-75-201.1, C.R.S. (2008) as it is included for informational purposes because it is continuously appropriated by a permanent statute or constitutional provision which is not subject to the limit on General Fund appropriations in Section 24-75-201.1, C.R.S. (2008).

Another category of General Fund Exempt appropriations includes the GFE – TABOR category:

General Fund Exempt (GFE) - TABOR. General Fund revenues not subject to the TABOR limit. This includes proceeds funds such as those from the sale of property or authorized by Referendum C. Any moneys retained by Referendum C are categorized as General Fund Exempt - TABOR. There were no GFE TABOR moneys appropriated by the General Assembly in FY 2009-10 because there was no forecasted General Fund revenue over the TABOR limit. When such GFE TABOR revenues are available to the state, they are

appropriated according to Section 24-77-104.5 C.R.S. and Section 24-77-103.6 (2), C.R.S. (2008).

- 3) *Cash Funds (CF)*. Cash Funds include fees and other designated sources of funds which are collected by the State. As of FY 2008-09, the category of Cash Funds also includes gifts, grants, donations, and/or damage awards paid to the state (e.g., the tobacco settlement).

Unless a cash fund is statutorily authorized to be continuously appropriated, annual spending authority to expend money from a cash fund must be provided by the General Assembly. Sometimes this is referred to as “cash fund spending authority.” Prior to FY 2008-09 some of the funds included in the Cash Funds designation were categorized as Cash Funds Exempt because they were exempt from the TABOR state revenue limit, pursuant to Article X, Section 20 of the Colorado Constitution.

- 4) *Reappropriated Funds (RF)*. Reappropriated Funds include funds which are appropriated and then transferred from one department or division to another department or division in the same fiscal year. Since these funds are counted “once” when they are originally appropriated, they are reflected as reappropriated funds in the “receiving” department/division. The designation of “reappropriated funds” reflects the “double count” nature of the funds.
- 5) *Federal Funds (FF)*. Any funds received directly from the federal government which are reflected in the Long Bill. Some federal funds are subject to appropriation by the General Assembly (e.g., TANF) but most federal funds are simply reflected in the appropriation (or budget request) for informational purposes. Federal funds may include categorical or block grants not necessarily available for uses outside of those specified in the grant award.

Clearly showing the amount of federal funds is important for transparency purposes as well as for budget management purposes as the “(M)” notation could affect the expenditure levels from the line item appropriation. The “(M)” notation is specified in the Long Bill headnotes. As applied, this “(M)” notation provides that if such notation is added to a line item, if federal funds shown in the appropriation increase beyond those reflected in the appropriation, the respective General Fund in the appropriation shall be commensurately reduced.

Specifying Special Funds Further:

Medicaid Cash Funds. Medicaid Cash Funds are first appropriated as state funds (typically General Fund) matched with Medicaid federal funds in the Department of Health Care Policy and Financing, the single state agency for Medicaid. If Medicaid Cash Funds are transferred to other state agencies, they are appropriated as Reappropriated Funds - Medicaid Cash Funds dollars.

Departments which are requesting the Reappropriated Funds from Medicaid Cash Funds must identify this source by line item in the budget request and must specify the General Fund portion within the Reappropriated Funds - Medicaid Cash Funds as well as the *Net General Fund* (for informational purposes). Net General Fund is the sum of the General Fund within the Medicaid appropriation to the Department of Health Care Policy and Financing plus any direct General Fund appropriated to the line item being funded in the department receiving the Medicaid.

HUTF. Departments that are appropriated moneys from the Highway Users Tax Fund (HUTF) must identify this source by line item. It is considered a distinct type of cash funds.

Capital Funds. Capital funds include the following fund categories:

Capital Construction Funds. The principal source of this fund is a transfer from the General Fund to the Capital Construction Fund. Transfers from the General Fund to the Capital Construction Fund are made in a separate appropriations companion bill and also through automatic transfers pursuant to SB 09-228 (per Section 24-75-219 (2) (a) (II), (b) (II), and (c) (II), C.R.S. (2009). For years prior to FY 2009-10, in addition to General Fund transfers, transfers to the Capital Construction Fund were also made through automatic transfers pursuant to HB 02-1310, if there was sufficient revenue to do so. When General Fund is transferred to the Capital Construction Fund, it is subsequently appropriated from the Capital Construction Fund as Capital Construction Funds, or CCF.

Cash Funds, Reappropriated Funds, and Federal Funds (see above). These types of funds may be available for capital construction appropriations depending on the department and the nature of the request. Off-the-top HUTF is also a frequent source of funding for capital construction for Ports of Entry in the Department of Revenue and for the Department of Public Safety.

Federal and Custodial Funds

Custodial federal funds are provided for a specific purpose and are not subject to appropriation by the General Assembly. Federal funds are subject to appropriation when such funds can be transferred to other block grants or when the funds are not for a specific purpose. In addition, pursuant to its authority to allocate state funds, the General Assembly can limit federal funds when state matching funds are required.

Federal funds are generally identified as either block grants or categorical grants depending on the restrictions imposed. Block grants may be used for a specific purpose, although the State has discretion to spend block grant funds for any activity consistent with that purpose. Block grants usually require states to make an annual application. Examples of block grants include the Maternal and Child Health and Preventive Health grants made to the Department of Public Health and Environment. Categorical grants may only be spent for a specific type of activity. Title XIX (Medicaid) and Title X (Family Planning) are examples of categorical grants.

Typically, OSPB will require departments to submit budget requests for 100% federal funds, especially when FTE are involved, there is an existing appropriation or line item for using the funds, or budgetary transparency is particularly required.

9.6 COORDINATING REQUESTS THAT AFFECT MULTIPLE DEPARTMENTS

This section describes two cases in which Budget Requests may require coordination among departments: contracts among state departments and requests from cash funds shared by more than one department.

Coordination of Requests between Departments

When a department (department A) requires services which are provided by another department (department B) for which associated funding is transferred from department A, any increase in costs must be reflected in both or all of the appropriate budgets. When submitting a Change Request, this is done by both departments submitting a Schedule 13. It is important that “department A” communicate its request for an increase to “department B” in time for department B to incorporate the increase into its Budget Request. The appropriation to department B will be usually be from Reappropriated Funds, reflecting the transfer of funds from one department to another. Please note, the coordination of such requests is outlined in Chapter 4, and in Chapter 8 where coordination is required with the Department of Personnel and Administration for Common Policies. There are deadlines on the OSPB Budget Calendar that indicate when a department submitting a request to OSPB must inform affected departments that they need to submit a corresponding Schedule 13.

Departments Sharing the Same Fund

Some departments share the same cash fund sources. For example, the Off-the-Top allocations from the Highway Users Tax Fund (HUTF) are used by the Department of Public Safety and the Department of Revenue. In cases where departments share a common cash fund/source, OSPB will be responsible for ensuring that the total request does not exceed the capacity of the fund. In these cases, departments must report the balance as described by OSPB and may not provide separate balance projections.